

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper No. ~~65~~ 21

Filed by: Trial Section Motions Panel
Box Interference
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

FAXED

FUMIHIKO WATANABE, HIROSHIGE TSUZUKI
AND MITSUAKI OHTANI
Junior Party
(U.S. Patent Application 09/120,383),

APR 10 2003

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

v.

PATRICK MICHAEL O'BRIEN AND DRAGO ROBERT SLISKOVIC
Senior Party,
(U.S. Patent No. 5,756,545).

Patent Interference No. 105,010 (MPT)

Before: TORCZON, TIERNEY and NAGUMO, Administrative Patent Judges.
TIERNEY, Administrative Patent Judge.

FINAL JUDGMENT

A conference call was held on April 9, 2003 at approximately 2:00 p.m. (EST) involving:

1. Michael P. Tierney, Administrative Patent Judge
2. Dr. Eric Baude, counsel for O'Brien.
3. Stephen Maebius and George Quillin, counsel for Watanabe.

During the conference call, counsel for O'Brien requested adverse judgment as to Counts D and E, the counts in interference, as well as all claims corresponding to Counts D and E. As O'Brien has requested adverse judgment, judgment on priority is entered against O'Brien. 37 C.F.R. §1.662. Additionally, both parties agreed that this decision on priority rendered moot Watanabe Preliminary Motion 6, which requested an earlier accorded benefit date.

Upon consideration of the record, it is:

ORDERED that judgment on priority as to Counts D and E (Decision on Expedited Motions, Paper No. 46), the sole counts in the interference, is awarded *against* O'Brien.

FURTHER ORDERED that O'Brien is not entitled to a patent containing claims 1-13 of O'Brien U.S. Patent 5,756,545 as these claims correspond to Count D

FURTHER ORDERED that O'Brien is not entitled to a patent containing claims 14-18 of O'Brien U.S. Patent 5,756,545 as these claims correspond to Count E.

FURTHER ORDERED that a copy of this final decision shall be placed and given a paper number in the file of O'Brien U.S. Patent 5,756,545 and Watanabe, U.S. Application 09/120,383.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to

35 U.S.C. § 135(c) and 37 C.F.R § 1.661.

RICHARD TORCZON
Administrative Patent Judge

MICHAEL P. TIERNEY
Administrative Patent Judge

MARK NAGUMO
Administrative Patent Judge

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cc (via Facsimile):

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